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U.S. DISTRICT COURT
DISTRICT OF IDAHO
Pocatello, Idaho
CLERK OF COURT
JAN 14 1993

**UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO**

POCATELLO DENTAL GROUP, P.C.,)
an Idaho professional corporation,)
)
Plaintiff,)

Case No. CIV 03-450-E-LMB

vs.)

**PLAINTIFF'S OBJECTION TO
DEFENDANT'S MOTION AND
APPLICATION FOR A
TEMPORARY RESTRAINING ORDER**

INTERDENT SERVICE CORPORATION,)
a Washington corporation,)
)
Defendant.)

INTERDENT SERVICE CORPORATION,)
a Washington corporation,)
)
Counterclaimant,)

vs.)

POCATELLO DENTAL GROUP, P.C., an)
Idaho professional corporation; DWIGHT G.)
ROMRIELL, individually; LARRY R.)
MISNER, JR., individually; PORTER)
SUTTON, individually; ERNEST SUTTON,)
individually; GREGORY ROMRIELL,)
individually; ERROL ORMOND, individually;)
and ARNOLD GOODLIFFE, individually,)

Counterdefendants.)

COMES NOW Plaintiff/Counterdefendant, Pocatello Dental Group, P.C. ("the Group"), through counsel, and objects to the motion and application for a temporary restraining order filed by Defendant/Third-Party Plaintiff, InterDent Service Corporation ("ISC"). For the reasons stated below, ISC cannot meet its burden of showing that it is entitled to a temporary or preliminary injunction.

INTRODUCTION

ISC seeks a temporary restraining order requiring the Group to have the Group's mail, including the mail of its dentists, delivered to the Group's physical address rather than the Group's post office box. A brief history of the events leading up to the Group changing the delivery location of its mail is necessary to put ISC's motion in proper perspective.

In October 1996, the Group entered into a Dental Group Management Agreement ("Management Agreement") with GMS Dental Group Management, Inc. ("GMS"). For several years thereafter, the Group's mail was delivered to its physical address where the mail was opened and processed by GMS. GMS deposited accounts receivable in a local bank account approved by the Group and paid the expenses of the Group from that account. At any time, any member of the Group had access to information about what was being received in the mail, what was being deposited into the bank account and what was being paid from the account.

Then, without the Group's consent, ISC began managing the practice. ISC management practices significantly differed from those of its predecessor. For example, patient records, including billing records, had been maintained in a computer at the Pocatello facility for years. ISC, without the Group's knowledge or consent, removed the computer. At about the same time, ISC began diverting mail and accounts receivable to its Vancouver, Washington office. ISC began depositing

accounts receivable and paying expenses from an account that the Group had no access to and had neither selected nor approved. ISC's actions violated the Management Agreement.

On May 16, 2003, the Group demanded that its accounts receivables be deposited in an account selected and opened by the Group, as required by the Management Agreement.¹ ISC refused to comply.² The Group renewed its demand on June 3, 2003.³ Not only did ISC refuse to comply, it somehow managed to close the account that the Group had opened.

The Group also requested an accounting of the funds received by ISC. In response, ISC stated that it would only provide accounting information when the Group showed it had "the wherewithal to negotiate a purchase in the appropriate price range."⁴ In other words, ISC imposed a condition on the disclosure of financial information that did not exist in the Management Agreement. To date, ISC has failed to account to the Group for the funds its receives and disburses. Allowing ISC to have control over the mail simply allows it to continue to breach the Management Agreement as far as accounts receivable and accounting is concerned.

Because ISC controlled the mail, it was also able to deprive the Group of funds necessary to pay the Group's expenses. Last year, ISC refused several requests by the Group to pay its attorney fees.⁵ ISC took the absurd position that it had the authority to hire representation for the Group. ISC's refusal to pay the Group's attorney fees from the Group's accounts receivable places

¹ See, Exhibit A to the Affidavit of James P. Price, submitted herewith.

² *Id.*, Exhibit B.

³ *Id.*, Exhibit C.

⁴ *Id.*, Exhibit D.

⁵ *Id.*, Exhibits D and E.

the Group at a serious disadvantage in these proceedings. It is simply a heavy-handed attempt on the part of ISC to quash the enforcement of the Group's rights.

ISC's dominion over the mail had other adverse effects. For example, vendors send samples and information through the mail concerning new products. ISC retains those samples and information, thereby depriving the dentists of access to information and supplies that might improve their practices and the treatment of their patients. The mail includes correspondence between patients and their dentists, some of which deals with treatment concerns. Without having control of the mail, the Group, which is solely responsible for the treatment of patients, cannot be sure that its dentists are receiving any correspondence from their patients.

ISC also intercepted at least three lawsuits against the Group last year. Two former employee-dentists of the Group sued the Group concerning issues of compensation. The Group did not learn of the lawsuits until settlement agreements were reached, although the Group's assets were potentially liable for satisfaction of the settlement amounts. More significantly, ISC intercepted a lawsuit by a patient of the Group which raised practice issues. The Group did not learn of this lawsuit until ISC asked one of the Group's dentists to testify on the Group's behalf at trial. ISC tried to hide all of these lawsuits from the Group because they originated from conduct of ISC. Had the Group had access to the mail, it likely would have learned about these lawsuits which had potentially severe consequences to the Group.

ISC tampers with personal mail addressed to the dentists. For example, a letter to Dr. Misner, clearly marked on the envelope as "personal" and addressed to the Pocatello facility was sent by ISC's Pocatello staff to the office in Vancouver where it was opened and then taped shut. Dr.

Misner did not receive the letter until two months after it was sent. ISC certainly has no right to tamper with a dentists' personal mail.

ISC also tampers with outgoing mail. The Group changed its registered agent on its annual report form filed with the Secretary of State's office. The form was given to ISC to mail. Barbara Henderson, ISC's manager in Pocatello, without the knowledge or authorization of the Group, changed the form to name herself as registered agent and then mailed the form.⁶

During the past year, two of the dentists who founded the Group, Drs. Porter Sutton and Dwight Romriell, quit because of ISC's management practices. Dr. Dwight Romriell's last day was December 31, 2003. When he attempted to change his address at the post office, he ran into difficulties because ISC insisted that it had a right to his mail. This brought the issue to a head, but the Group had considered for several months having the mail delivered to a post office box belonging to the Group. The president of the Group, Dr. Greg Romriell, wrote a letter to the Postmaster directing that the Group's mail, including mail addressed to its dentists, be delivered to the Group's post office box. The Group's counsel also submitted a letter and documents to the Postmaster in support of the Group's position. The Postmaster forwarded the information to its legal department which determined that the Postmaster should comply with the direction of the Group's president.

Changing the location of the delivery of the mail was necessary to prevent ISC from continuing to breach the Management Agreement by depositing funds into an account that was not selected by the Group, failing to account for funds received and expenses paid, depriving the Group of access to funds to pay its expenses, interfering with the dentist-patient relationship, and depriving

⁶ *Id.*, Exhibit F.

the Group of samples and information regarding new supplies available to treat its patients. Furthermore, it was necessary to prevent ISC from interfering and/or tampering with mail it had no right to receive.

ARGUMENT

The standards for preliminary injunctive relief are set forth in *Johnson v. California State Bd. of Accountancy*, 72 F.3d 1427, 1430 (9th Cir. 1995), which states:

"The traditional equitable criteria for granting preliminary injunctive relief are (1) a strong likelihood of success on the merits, (2) the possibility of irreparable injury to plaintiff if the preliminary relief is not granted, (3) a balance of hardships favoring the plaintiff, and (4) advancement of the public interest (in certain cases)." [Citation omitted.] "Alternatively, a court may issue a preliminary injunction if the moving party demonstrate *either* a combination of probable success on the merits and the possibility of irreparable injury *or* that serious questions are raised and the balance of hardships tips sharply in his favor. [Citations omitted.]

(Italics in original.) Furthermore, a movant must demonstrate that its remedy at law (e.g., for damages) is inadequate. *Stanley v. University of Southern California*, 13 F.3d 1313, 1320 (9th Cir. 1994).

- I. **ISC materially breached the Management Agreement and its duties to the Group. Furthermore, the Management Agreement does not require that the mail be delivered to ISC. Accordingly, the likelihood of ISC succeeding on the merits is *de minimis*.**

ISC's claim regarding the mail is found at paragraph 68(j) of its proposed Amended and Supplemental Answer, Counterclaims and Third-Party Complaint,⁷ wherein ISC alleges that the Group materially breached the Management Agreement by diverting mail from the Group's and

⁷ ISC has filed a motion seeking leave to file this pleading with the Court.

ISC's offices. ISC bases its allegations on Article 4 of the Management Agreement, particularly paragraph 4.6.

As a threshold matter, ISC has not proved that it is entitled to enforce the Management Agreement. ISC alleges that it is the successor-by-merger of GMS, the "Manager" under the agreement. Although ISC's president, Ivar Chhina, testified in his affidavit⁸ about the mergers that lead to ISC allegedly succeeding to GMS's right in the Management Agreement, ISC has never submitted documentary evidence of the mergers. Under the "best evidence rules", F.R.E. 1001-1007, the content of a writing must be proved by production of the writing or, in some circumstances, a duplicate. Certainly the mergers between GMS and ISC were in writing. If ISC intends to enforce the Management Agreement, it must produce the merger agreements. Mr. Chhina's testimony evidence is extrinsic and should be excluded.

Assuming that ISC can demonstrate that it is entitled to enforce the Management Agreement, it has failed to show that the Group violated the agreement by diverting the mail to its own post office box. Paragraph 4.6 does not mention mail. In paragraph 4.6, the Group merely grants ISC an non-exclusive power of attorney to bill and collect accounts receivable. It does not require that the Group's mail be sent to ISC. It is wholly consistent with paragraph 4.6 for the mail to be sent to the Group's post office box for the Group to review before turning over any mail related to billing and collecting efforts to ISC.

⁸ This affidavit is included as part of Exhibit 3 to the Affidavit of Scott J. Kaplan in Support of Defendant/Third-Party Plaintiff's Motion for Temporary Restraining Order.

The change in the delivery location of the Group's mail was occasioned by ISC's refusal to abide by the terms of the Management Agreement. It is undisputed that the accounts receivable generated by the Group belong to the Group.⁹ Paragraph 2.5 of the Management Agreement states:

All cash received by Group from whatever source shall be deposited into an account or accounts ("Accounts") in the name of Group at a banking institution **selected by Group** and approved by Manager. Group authorizes Manager to bill and collect, in Group's name, all charges and reimbursements for Group's dental related activities and **to deposit such collections in the Accounts**. Group agrees to assist and cooperate with Manager in the billing and collection process to **immediately deliver to Manager for deposit any monies Group may receive**.

(Emphasis added.) Despite the Group's demands that ISC deposit the Group's accounts receivables in an account selected by the Group, as required by the agreement, ISC continues to deposit the accounts receivable in an account in Vancouver, Washington. For years after the Group entered into the Management Agreement, accounts receivable were deposited in an account in Pocatello. Checks written for the expenses of the Group were drawn on that account. The Group had access to the banking information, including the deposits and withdrawals. That course of conduct changed a couple of years ago when ISC began sending all monies to Vancouver. Since then, ISC has deprived the Group of information related to the deposits to and expenses paid from that account.

Paragraph 2.5 also contemplates that the Group may receive monies. If it does so, the Group is required to turn those monies over to the Manager for deposit into an account selected by the Group. The paragraph supports the Group's position that it may collect its own mail.

⁹ According to paragraph 2.4 of the Management Agreement, "revenues" is defined as all of the Group's accounts receivable and cash collected by or legally due to the Group. ISC admitted that the Group owns the accounts receivable in its schedules filed in its bankruptcy case in California. Aff. of J. Price, Exhibit G.

ISC materially breached several other provisions of the Management Agreement. Not all of the material breaches are directly related to the mail issue, but they are relevant to whether ISC is entitled to injunctive relief. It is a basic tenet of contract law that if a breach of contract is material, the other party's performance is excused.¹⁰ *J.P. Stravens v. City of Wallace*, 129 Idaho 542, 545, 928 P.2d 46, 49 (Ct.App. 1996); *Ervin Const. Co. v. Van Orden*, 125 Idaho 695, 700, 874 P.2d 506, 511 (1993); *Mountain Restaurant Corp. v. ParkCenter Mall Associates*, 122 Idaho 261, 265, 833 P.2d 119, 123 (Ct.App. 1992); *Enterprise, Inc. v. Nampa City*, 96 Idaho 734, 740, 536 P.2d 729, 735 (1975). If ISC materially breached the Management Agreement, the Group is excused from any obligation the Group might have with respect to the mail under that agreement. Furthermore, the number and breadth of these breaches show that ISC has little likelihood of prevailing on the merits.

The following is a sampling and brief summary of ISC's material breaches of the Management Agreement. It is offered to show the hurdles ISC must overcome to prevail on the merits.

• **Interference with the dentist-patient relationship and the practice of dentistry.** *See*, Management Agreement, ¶¶ 2.1, 3.2, 3.3, 3.4(a)(1). The Management Agreement specifically states that ISC shall not alter or in any way affect the legal, ethical and professional relationship between and among a dentist and the dentist's patients, nor abrogate any right or obligation arising out of or applicable to the dentist-patient relationship. ISC has on numerous occasions refused patients the right to obtain or continue receiving services from PDG and had caused patients to terminate their relationships with their dentist, all without the knowledge or consent of the treating dentists.

¹⁰ Similarly, a defaulting party has no right to demand performance from the other party. *See, e.g., Huggins v. Green Top Dairy Farms*, 75 Idaho 436, 448, 273 P.2d 399, 411 (1954); *Aldape v. Lubcke*, 107 Idaho 316, 317, 688 P.2d 1221, 1222 (Ct.App. 1984).

ISC placed a substantial number of patients on a “no recall” list. By doing so, the patient will not receive a card in the mail to schedule an appointment until the year 2028 and is not allowed to reschedule an appointment before then. Many of the patients on the 2028 reports were in the middle of a course of treatment when ISC placed them on “no recall” status. Each dentist has the legal, professional and ethical duty to provide complete treatment to a patient once that treatment begins. By putting patients on the 2028 reports without the approval of the treating dentists, ISC not only interfered with the dentist-patient relationship, but subjected the dentists to potential liability.

ISC has also interfered with the practice of dentistry by dictating the supplies that the dentists must use. ISC intentionally withholds information concerning available supplies and has interfered with PDG’s ability to obtain supplies that dentists believe are necessary for the treatment of their patients.

- **Failure to provide equipment and materials and to maintain the practice as the preeminent group practice in Pocatello and the surrounding area.** *See*, Management Agreement, ¶¶ 4.1 and 4.2. During the time that ISC has acted as manager, much of the equipment used by PDG has fallen into serious disrepair and/or become obsolete. ISC refuses to provide PDG with adequate equipment and materials that have been developed as a result of technological advances and which are available in other practices in the Pocatello area. Some equipment is in such short supply that dentists must share the equipment, often causing patients to wait until the equipment becomes available.

- **Failure to hire and train all non-dentist personnel necessary for the operation of the practice.** *See*, Management Agreement, ¶ 3.8(b) and 4.4(b). The employment agreements between the dentists and PDG allow for a certain percentage of revenue to be devoted to non-dentist

personnel, which ISC is obligated to provide. ISC continues to maintain staffing levels below the percentages stated in the dentists' employment agreements and at levels that are inadequate for the efficient and effective operation of the practice. ISC is pocketing money that should be used for personnel.

ISC also hires, transfers and terminates support personnel without the knowledge or consent of PDG or individual dentists. The Management Agreement requires ISC to seek the consent of the dentists when hiring and terminating non-dentist clinical staff.

- **Denial of access to patients' records.** *See*, Management Agreement, ¶¶ 2.6(a) and Addendum 1(10). Over the past several months, PDG has made several requests for lists of patient records. PDG needs the information to ensure that patients are being fully treated and to give notices of changes in personnel to avoid patient abandonment and professional liability claims. ISC refuses to turn over the information, although the Management Agreement is clear that patient records belong to PDG.

- **Imposition of a Professional and Courtesy Discount Policy.** *See*, Management Agreement, ¶ 4.6(a). On April 2, 2003, ISC unilaterally announced the adoption of an "adjustment policy" whereby all professional and courtesy discounts to a patient's bill required pre-approval from ISC and, if approved, would be charged against the compensation of the dentist who requested the discount.

Paragraph 4.6(a) expressly requires ISC to comply with PDG's policies regarding courtesy discounts. The change in policy turned the Management Agreement on its head by requiring PDG to comply with ISC's policies regarding courtesy discounts.

- **Failure to pay the claims and obligations of PDG.** *See*, Management Agreement, ¶ 2.6(b). Because ISC has deprived PDG of access to patient payments, PDG lacks available funds to pay its expenses.

- **Failure to include in dentists' compensation the dentists' share of interest charged on patients' accounts.** *See*, Management Agreement, ¶ 2.4. ISC has been retaining all of the interest collected on patients accounts. The interest is part of the revenues generated by PDG and should be included in the dentists' compensation. ISC refuses to account for the interest and pay it to the dentists their share.

- **Failure to provide an experienced manager.** *See*, Management Agreement, ¶ 4.4(a). In approximately May of 2003, ISC fired Dan Horrocks, who was managing PDG's practice. Mr. Horrocks had considerable experience in health care management. ISC replaced Mr. Horrocks with Barbara Henderson, who had no experience in dental practice management.

These material breaches, and others, will be dealt with in greater detail as this litigation proceeds. It is likely that the Group, rather than ISC, will succeed on the merits.

II. ISC cannot prevail on the merits because it is not entitled to receive the mail as a matter of law.

ISC alleged in its Memorandum that Dr. Dwight Romriell's participation in the diversion of the mail to the Group's own post office box was "potentially criminal." ISC does not provide any legal authority for its position. It is important to note that this matter was handled by the Postmaster of the Pocatello post office and referred to the U.S. Postal Service's legal counsel. It was the opinion of the Postal Service that the mail should be sent to the Group's post office box. That decision is supported by law.

The Postmaster wrote a brief letter to counsel for the Group announcing his decision.¹¹ The letter stated:

. . .this is notification to you that on advice from our legal department, I have decided to release all mail destined for the Pocatell/Idaho Dental Group pursuant to the request of the President of that Group. I am basing my decision on postal regulations contained in the Domestic Mail Manual (DMM) at section D042.4.1.

The DMM is part of the Code of Federal Regulations. 39 C.F.R. § 111.5. Section D042.4.1 governs the delivery of mail to an individual at an organization. It states:

All mail addressed to a governmental or nongovernmental organization or to an individual by name or title at the address of the organization is delivered to the organization, as is similarly addressed mail for former officials, employees, contractors, agents, etc. If disagreement arises where any such mail should be delivered, it must be delivered under the order of the organization's president or equivalent official.

Dr. Greg Romriell, as president of the Group, provided with Postmaster with a letter directing that the mail of the Group and its dentists be delivered to the Group's post office box. ISC, nor any of its employees or agents, are neither shareholders nor officers of the Group. Accordingly, ISC has no power under Section D042.4.1 to direct where the mail is delivered. Neither the Group nor any of its dentists have waived their right to receive their own mail. ISC has no right to receive the mail as a matter of law.

III. ISC cannot demonstrate a significant threat of irreparable injury.

ISC claims that irreparable harm will result if the Group is allowed to receive its mail at its post office box. ISC's argument regarding irreparable injury focuses more on accounts receivable than it does on the delivery location of the mail. ISC ignores the fact that the mail can be delivered

¹¹ Aff. of J. Price, Exhibit H.

to the Group's post office and ISC can still receive the accounts receivable from the Group. ISC only suffers possible harm if the Group does not turn over the accounts receivable, which the Group has every intention of doing if ISC adheres to the Management Agreement and deposits those funds in an account selected by the Group. ISC only suffers potential harm if it continues to breach the Management Agreement.

A significant portion of ISC's argument regarding irreparable harm focuses on parties and persons other than ISC, including vendors, the "Pocatello Office", the Group and its dentists, ISC's employees and the Group's patients.¹² As ISC recognized in its Opposition to Plaintiff's Motion for Preliminary Injunction¹³ (Docket No. 12), a party seeking an injunction must prove irreparable injury **to itself**. *Nationwide Paging Corp. v. Regional Comm's, Inc.*, 1992 WL 355598 *3 (E.D.N.Y.), citing *Weitzman v. Stein*, 897 F.2d 653, 658 (2d Cir. 1990). The Group is ultimately responsible for payment to its vendors, dentists and non-professional staff. It is also responsible for the care of its patients and the maintenance of their records. The Group is committed to fulfilling its financial and professional obligations to its vendors, dentists, non-professional staff and patients. The Group, not ISC, would be the proper party defendant in an action filed by any of these individuals. Therefore, it is the Group which is at risk of injury.

¹² ISC claims that a patient was unable to receive care because x-rays mailed to the Pocatello office did not arrive. The care of patients is the sole responsibility of the Group. Furthermore, there is no evidence that alleged x-rays were in the mail being held by the post office or now in the hands of the Group. In fact, there are no x-rays in the mail held by the Group. ISC also claims that HIPAA information may be diverted to third parties. The Group is not a third party. Furthermore, ISC lacks standing to assert a HIPAA violation, if there was one, on behalf of a patient.

¹³ Earlier in this case the Group obtained a temporary restraining order against ISC related to Dr. Dwight Romriell's departure from the Group.

ISC also raises issues of delay and the potential for mail to be lost. ISC forwards a considerable amount of mail it receives at the Pocatello office to its Vancouver, Washington office. Any delay and potential for mail loss is attributable to the actions of ISC, not the Group.

ISC's only financial interest under the Management Agreement is for a management fee. According to Article 7 of the agreement:

For its services hereunder, which shall include the providing of all facilities and furniture, fixtures and equipment at the Practice, all non-dentist employees of Manager who perform services at or for the Practice and all management services provided hereunder, Manager shall retain as a Management Fee (the "Management Fee") all Revenues after payment of Group Expenses.

The management fee is all that "belongs to" ISC. ISC is not entitled, as it claims, to all revenues in excess of the dentists' compensation.

Again, as ISC recognized in its opposition to the Group's prior temporary restraining order, temporary loss of income, ultimately to be recovered, does not usually constitute irreparable injury. *Lydo Enter., Inc. v. City of Las Vegas*, 745 F.2d 1211, 1213 (9th Cir. 1984). Where monetary damages may compensate for the loss, injunctive relief is unavailable. *Stanley*, 13 F.3d at 1320. If ISC loses any of the management fee to which it might be entitled as a result of the Group's actions, it can be compensated for that loss through an award of monetary damages. It has an adequate remedy at law. Therefore, injunctive relief cannot be granted.

IV. When balancing the relative hardships, granting injunctive relief does more harm to the Group than it does to ISC.

ISC claims that the Group will not suffer any cognizable harm if an injunction is granted. To the contrary, the hardships to the Group outweigh any hardship to ISC. There is no hardship to ISC in having the mail delivered to the Group's post office box and then inventoried by the Group

before turning over funds to ISC. On the other hand, if ISC is allowed to receive the mail and deposit funds received in a bank account that is not selected by the Group, the Group is deprived of its right to an accounting of those funds. The possibility for misappropriation of those funds is high. Furthermore, if mail related to patient care is not provided to the dentists, the professional and ethical obligations of the dentists is potentially compromised, subjecting them to malpractice claims and/or putting their licenses to practice dentistry at risk.

V. Granting an injunction would harm the public interest.

ISC argues that an injunction is necessary to prevent the closure of the Pocatello office. Again, ISC makes this argument on behalf of patients, rather than itself. Furthermore, ISC has not shown how delivery of the mail to the Group's post office box alone would result in the closure of the office. As previously discussed, the Group has every intention of meeting its obligations to its vendors, patients and professional and non-professional staff.

If an injunction is granted, the public interest will be harmed because ISC would be allowed to continue to interfere with communications between the dentists and their patients. The Group is responsible for the practice of dentistry and to ensure that its dentists meet their professional and ethical obligations to their patients. To do so, the Group and its dentists must have full and immediate access to all mail from their patients.

VI. If the Court grants a temporary restraining order or preliminary injunction, ISC should be required to post a bond.

ISC claims that granting a temporary restraining order or preliminary injunction carries no risk of monetary loss to the Group and, hence, no bond should be required. However, if ISC is permitted to control the mail as it has done in the past, the Group is placed at a substantial risk of

monetary loss. There is the possibility of misappropriation of funds and professional liability claims for the interference of the dentist-patient relationship. Accordingly, ISC should be required to post a bond.

CONCLUSION

ISC fails to satisfy the requirements for a temporary restraining order or preliminary injunction. Its motion and application should be denied.

DATED this 9th day of February, 2004.

COOPER & LARSEN


for GARY L. COOPER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of February, 2004, I served a true and correct copy of the above and foregoing document to the following persons:

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